

April 3, 2015

Heidi H. Trimarco  
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Susan M. Hudson, Clerk  
Vermont Public Service Board  
112 State Street  
Montpelier, VT 05620-2701

Re: Docket No. 7970: Phase 1 of the Addison Rutland Natural Gas Project  
Request for Non-Substantial Change Determination

Dear Mrs. Hudson:

With this letter, Vermont Gas Systems, Inc. (“Vermont Gas” or “VGS,” ) is providing the Public Service Board (the “Board”) with notice of five non-substantial changes (the “Project Changes.”) to Phase 1 of the Addison Rutland Natural Gas Project (“Phase 1” or the “Project”) approved in Docket 7970. The Project Changes are primarily related to increasing efficiency and decreasing construction risk. Each are briefly described below and further detailed the in the enclosed attachments.

- **Sandplain 1 (Colchester)** – extends a section of Horizontal Directional Drill (“HDD”) and associated areas to be consistent with the Memorandum of Agreement with the Agency of Natural Resources
- **Sandplain 2 (Essex)** – modifies a temporary access to improve construction efficiency and accessibility
- **Arch Mitigation 1, 2 and 3 (New Haven)** – converts HDD to open-trench construction following Phase III archeology assessment.

Vermont Gas has evaluated the potential impacts of the Project Changes and concluded that they present no potential for any significant impacts to any of the relevant Section 248(b) criteria. The Project Changes have also been reviewed with the Agency of Natural Resources and the Department of Public Service (“DPS”). DPS has agreed that the Project Changes are non-substantial. Additionally, Vermont Gas has acquired the land rights associated with each of the Project Changes located on private property and has reviewed them with the impacted landowners. For Project Changes on land owned by VTrans, Vermont Gas has verbal approval from VTrans to implement the changes. Finally, the current Project budget of \$154 Million is adequate to address these changes and no budget adjustment is necessary. Accordingly, Vermont Gas concludes the proposed Project Changes are non-substantial and provide improvements to the Project without raising substantial issues with respect to any of the

applicable Section 248 criteria. Consequently, Vermont Gas respectfully requests a determination from the Board that the changes do not represent a substantial change or a material deviation from the approved Project.

In support of this request, included with this letter are the following attachments:

- Attachment 1: Non-Substantial Change Summary Memorandum from John Stamatov, Project Manager.
- Attachment 2: Updated EPSC Plan Sheets relevant to the five changes.
- Attachment 3: Environmental Consideration Memorandum from Jeffrey A. Nelson, VHB and a Attachment A including a table and the natural resource sheets relevant to the five changes.
- Attachment 4: Aesthetics Review Memorandum from Michael J. Buscher, T.J. Boyle Associates.
- Attachment 5: Archaeological and Historical Resources Memorandum, from John G. Crock, UVM CAP.
- Certificate of Service

The remainder of this letter provides the background, non-substantial change legal framework and conclusion supporting Vermont Gas' request. VGS plans to submit a Proposal for Decision next week.

### I. Background

By way of background, on December 23, 2013, the Board approved the construction of the Project and issued a Certificate of Public Good ("CPG") to that effect. Condition No. 1 of the CPG states that "[c]onstruction, operation, and maintenance of the proposed Project shall be in accordance with the plans and evidence as submitted in this proceeding. Any material deviation from these plans or a substantial change to the Project must be approved by the Board."

As would be expected with a complex linear project, certain changes have arisen, either in response to field conditions including the opportunity for potential efficiencies and/or in response to stakeholder comments, including the Agency of Natural Resources ("ANR"). The Project Changes are minor, and do not raise any potential for significant impact with respect to any of the criteria of Section 248(b) as evidenced by the attached memoranda listed above. These Project Changes are fully detailed in the Non-Substantial Change Summary Memorandum attached as Attachment 1, provided by Mr. John Stamatov.

## II. Legal Framework for Non-Substantial Change Determination

Pursuant to Board Rule 5.408, an amendment to a CPG is required “for a substantial change” to an approved project, defined as “a change in the approved proposal that has the potential for significant impact with respect to any of the criteria of Section 248(b) or on the general good of the State under Section 248(a).” Even where a revised project would satisfy the standards of Section 248 “more easily than the original design,” the statute requires that the Board rather than the petitioner find that the standards are satisfied.<sup>1</sup> Nevertheless, the Board has cautioned that it does not “wish to discourage petitioners from filing potential improvements to a proposed project for fear that additional procedural steps would significantly delay the proceeding.”<sup>2</sup> A determination that a change is substantial is considered in the context of the project as a whole.<sup>3</sup>

Where proposed changes do not have the potential to create significant impacts under the Section 248 criteria, the Board makes a Determination of Non-Substantial Change, and does not require petitioners to amend their CPG.<sup>4</sup> Such is the case here.

As explained in the Environmental Consideration Memorandum provided as Attachment 3, the proposed Project Changes do not raise significant issues with regards to the relevant Section 248(b) criteria. The majority of the changes will occur within the existing corridor, with negligible changes to the areas of disturbance. In addition, the modifications will be undertaken in accordance with existing permits, or with minor modifications to existing permits.

The Aesthetics Review Memorandum included as Attachment 4 demonstrates that the proposed Project Changes do not raise significant issues with regards to the relevant Section 248(b) criteria.

The Archaeological and Historical Resources Memorandum, included as Attachment 5, demonstrates that the first two proposed Project Changes will have no impact on cultural and historic resources and do not raise significant issues with regards to the relevant Section 248(b) criteria. The remaining three Project Changes are changes to proposed archaeologic mitigation measures in three locations. These Project Changes change archaeologic mitigation by replacing Horizontal Directional Drill (HDD) construction with open trench construction after completing a Phase III archaeological assessment. The proposed new Phase III archaeological mitigation will have no undue adverse effect on cultural and historic resources and does not raise significant issues with regards to the relevant Section 248(b).

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<sup>1</sup> *Petition of Cross Pollination, Inc.*, Docket No. 7645, Order of 10/29/12 at 4; *Investigation into Citizens Utilities Company*, Docket Nos. 5841/5859, Order of 6/16/97, at 131- 133.

<sup>2</sup> *Amended Petition of UPC Vermont Wind, LLC*, Docket No. 7156, Order of 10/1/07 at 8 n.5.

<sup>3</sup> *Petition of Cross Pollination, Inc.*, Docket No. 7645, Order of 10/29/12 at 4 (citing Docket No. 7156, Order of 10/1/07 at 7-8; Docket No. 7827, Order of 6/28/12).

<sup>4</sup> *Joint Petition of Vermont Transco LLC*, Docket No. 7751, Order of 2/11/13 at 3.

Finally, as described in the Non-Substantial Change Summary Memorandum, the proposed changes will have a minimal impact on the overall cost of the Project and do not require modifications to the Project budget of approximately \$154 million as filed with the Board on December 19, 2104.

When considered in the context of the overall Project, these are relatively minor modifications that do not meaningfully change the Project's size or scope. They do not represent modifications that have the potential for significant impact on the relevant Section 248 criteria. Therefore the five proposed changes are non-substantial.

### III. Conclusion

Based on the foregoing, Vermont Gas requests that the Board issue a determination that the five limited modifications described herein constitute neither a substantial change requiring a CPG amendment nor a material deviation from the approved plans. In addition, because the Project's CPG requires that construction of the Project be done in accordance with the plans and evidence submitted, Vermont Gas respectfully asks that the Board admit the revised exhibits provided herein to the record of this Docket to ensure compliance with Condition 1 of the CPG.<sup>5</sup>

In order to provide VGS with sufficient time to proceed with these design modifications and associated construction activities within this construction season, Vermont Gas respectfully requests a Board ruling by June 1, 2015. Thank you in advance for your consideration and attention in this matter, and please let VGS know should you have any questions or require additional information about the proposed modifications.

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<sup>5</sup> See *Joint Petitions of Vermont Transco LLC, Vermont Electric Power Company, and Central Vermont Public Service Corporation*, Docket No. 7751, Order of 2/11/13 at 3 (finding proposed changes were not substantial, admitting Petitioners revised plans to the record of the docket, and providing ten days from date of order for parties to file objections).

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Very truly yours,

DOWNS RACHLIN MARTIN PLLC  
Attorneys for Vermont Gas Systems, Inc.

By: 

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Enclosures

cc: Certificate of Service

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